

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

FILED

2008 SEP 25 A 10: 04

CLERK, US DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY
DEPUTY

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff,

V.

**LUBY'S RESTAURANTS LIMITED
PARTNERSHIP D/B/A LUBY'S
SAN ANTONIO #19,**

Defendant.

20

Civil Action No.

Civil Action No. **S A08CA0794**

FB

COMPLAINT

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex, female and to provide appropriate relief to Maria Del Carmen Rodriguez, Nadine Ramirez, Lisa Bustos, Jasmine Chamberlain, and a class of similarly situated females who were adversely affected by such practices. More specifically, Plaintiff, Equal Employment Opportunity Commission alleges that Defendant, Luby's Restaurants Limited Partnership d/b/a Luby's San Antonio #19 allowed and/or condoned a sex-based hostile work environment which adversely affected Maria Del Carmen Rodriguez, Nadine Ramirez, Lisa Bustos, Jasmine Chamberlain, and a class of similarly situated females in that they were subjected to repeated unwelcome sexual touching, sexual comments, gestures and innuendo, in addition to other harassing conduct leveled disproportionately or only against female employees, in violation of Section 703(a) of Title VII. The Equal Employment Opportunity Commission further alleges that Maria Del Carmen Rodriguez was constructively discharged, when forced to quit her employment, because

her employment conditions became so intolerable.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706 (f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Western District of Texas, San Antonio Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3).

4. At all relevant times, Defendant, Luby's Restaurants Limited Partnership d/b/a Luby's San Antonio #19 ("Luby's") has continuously been a limited partnership doing business in the state of Texas and the City of San Antonio, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Luby's has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Maria Del Carmen

Rodriguez filed a charge with the Commission alleging violations of Title VII by Defendant Luby's.

7. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least September 2005, Defendant Luby's has engaged in unlawful employment practices at its San Antonio, Texas restaurant in violation of Section 703(a) of Title VII, 42 U.S.C. §2000e-2. These unlawful employment practices include:

- (a) Subjecting Maria Del Carmen Rodriguez, Nadine Ramirez, Lisa Bustos, Jasmine Chamberlain, and a class of similarly situated females to a hostile work environment based on sex by exposing them to repeated unwelcome sexual touching, sexual comments, gestures and innuendo, in addition to other harassing conduct leveled disproportionately or only against female employees; and
- (b) Constructively discharging Maria Del Carmen Rodriguez by forcing her to quit her employment by making the conditions of her employment intolerable as a result of the sexual harassment.

9. The effect of the practices complained of in paragraph eight above has been to deprive Maria Del Carmen Rodriguez, Nadine Ramirez, Lisa Bustos, Jasmine Chamberlain, and a class of similarly situated females of equal employment opportunities and to otherwise adversely affect their status as employees because of their sex, female.

10. The unlawful employment practices complained of in paragraph eight above were intentional.

11. The unlawful employment practices complained of in paragraph eight above were done with malice or with reckless indifference to the federally protected rights of Maria Del Carmen Rodriguez, Nadine Ramirez, Lisa Bustos, Jasmine Chamberlain, and a class of similarly situated females.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

- A. Grant a permanent injunction enjoining Defendant Luby's, its officers, successors,

assigns, agents, servants, employees, attorneys, and all persons in active concert or participation with them, from engaging in sexual harassment, including sexual harassment culminating in a constructive discharge, and any other employment practice which discriminates on the basis of sex, female;

B. Order Defendant Luby's to institute and carry out policies, practices, and programs which provide equal employment opportunities for women, and which eradicate the effects of its past and present unlawful employment practices;

C. Order Defendant Luby's to make whole Maria Del Carmen Rodriguez by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to reinstatement of Maria Del Carmen Rodriguez or front pay in lieu thereof;

D. Order Defendant Luby's to make whole Maria Del Carmen Rodriguez, Nadine Ramirez, Lisa Bustos, Jasmine Chamberlain, and a class of similarly situated females, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph eight above, including but not limited to, relocation expenses, job search expenses, and medical expenses, in amounts to be determined at trial;

E. Order Defendant Luby's to make whole Maria Del Carmen Rodriguez, Nadine Ramirez, Lisa Bustos, Jasmine Chamberlain, and a class of similarly situated females by providing compensation for past and future nonpecuniary losses resulting from the unlawful employment practices complained of in paragraph eight above, including, but not limited to, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, depression, humiliation, loss of confidence and self-esteem, in amounts to be determined at trial;

F. Order Defendant, Luby's to pay Maria Del Carmen Rodriguez, Nadine Ramirez, Lisa Bustos, Jasmine Chamberlain, and a class of similarly situated females, punitive damages for engaging in discriminatory practices with malicious or reckless indifference to the federally protected rights of Maria Del Carmen Rodriguez, Nadine Ramirez, Lisa Bustos, Jasmine Chamberlain, and a class of similarly situated females, as described in paragraph eight, above, in amounts to be determined at trial;

G. Grant such further relief as the Court deems necessary and proper in the public interest; and

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

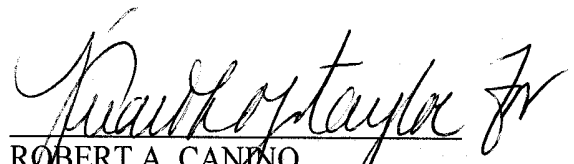
The Commission requests a jury trial on all questions of fact raised by its complaint.

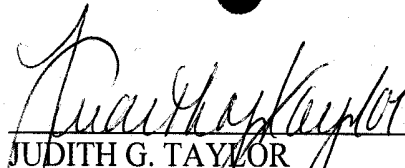
Respectfully submitted,

RONALD S. COOPER
General Counsel

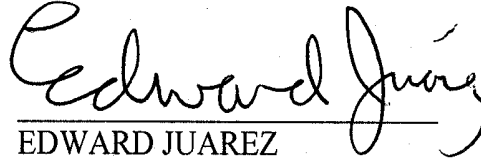
JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel


ROBERT A. CANINO
Regional Attorney *in permissio*
Oklahoma State Bar No. 011782



JUDITH G. TAYLOR
Supervisory Trial Attorney
Texas State Bar No. 19708300
E-mail: judith.taylor@eeoc.gov



EDWARD JUAREZ
Senior Trial Attorney
Texas Bar No. 24014498
E-mail: eduardo.juarez@eeoc.gov

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION**

San Antonio Field Office
5410 Fredericksburg Rd., Suite 200
San Antonio, Texas 78229-3555
Telephone: (210) 281-7613
Facsimile: (210) 281-7669

ATTORNEYS FOR PLAINTIFF